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December 8, 1998

Dear Mr. Xxxxxx:

This letter is in response to your letter dated June 9, 1998. We regret the delay in our response. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I would like to apply for a tax exempt status for the printing of a book for the PEOPLE who formerly lived in COUNTRY, but were forced to move from their homes during World War II. They are now scattered all over COUNTRY. Members of each family have submitted information and pictures about their families which we have compiled in a book to be printed by COMPANY located in CITY/STATE. COMPANY prints many school year books for the students in high schools and colleges. This book is a non-profit publication to be distributed to the families. The book is funded in part by the ORGANIZATION established by the COUNTRY Government and administered by the ORGANIZATION.

Since this is a not-for-profit book and is to be distributed to the families in COUNTRY who submitted their family histories, I would appreciate receiving the paper work needed in order to have a tax exempt status for the cost of printing of this book.

EXEMPT ORGANIZATIONS

Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2007. This number evidences that this State recognizes that the organization is exempt from incurring Use Tax when purchasing tangible personal property in furtherance of its organizational purpose. See the enclosed copy of 86 Ill. Adm. Code 130.2005.

These organizations are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in part (a)(2-4) of the enclosed copy of 86 Ill. Adm. Code 130.2005. If an organization does not have an E number, then its purchases are subject to tax. Please be aware that only sales to the organization holding the E number are exempt, not sales to individual members of the organization.

Sales to a governmental body are subject to tax unless the governmental body has an active exemption identification number (an "E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2080. If an organization or governmental body does not have an E number, then its purchases are subject to tax. Please be aware that only sales to the organization or governmental body holding the E number are exempt, not sales to individual members of the organization.

SPECIAL ORDER PRINTING

When a company contracts for the production of custom printed literature, a special order printing situation exists and liability is incurred under the Service Occupation Tax Act. See 86 Ill. Adm. Code 130.2000 and 140.101, enclosed.

Under the Service Occupation Tax Act, the purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen, depending upon which tax base the servicemen choose to calculate their liability. Servicemen may calculate their tax base in one of four ways: (1) separately stated selling price of the tangible personal property being transferred; (2) 50% of the entire bill; (3) Service Occupation Tax on the cost price of the tangible personal property being transferred if they are registered de minimis servicemen; or, (4) Use Tax on the cost price of the tangible personal property being transferred if the servicemen are de minimis and are not otherwise required to be registered under the Retailers' Occupation Tax Act.

Using the first method, servicemen may separately state the selling price of each item transferred as a result of sales of service. The tax is based on the separately stated selling price of the tangible personal property transferred. If servicemen do not wish to separately state the selling price of the tangible personal property transferred, those servicemen must use 50% of the entire bill to their service customers as the tax base. Both of the above methods provide that in no event may the tax base be less than the cost price of the tangible personal property transferred. Under these methods, servicemen may provide their suppliers with Certificates of Resale when purchasing the tangible personal property to be transferred as a part of the sales of service.

The third way servicemen may account for their tax liability only applies to de minimis servicemen who have either chosen to be registered or are required to be registered because they incur Retailers' Occupation Tax liability with respect to a portion of their business. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). See part (f) of the enclosed copy of 86 Ill. Adm. Code 140.101(f). This class of registered de minimis servicemen are authorized to pay Service Occupation Tax (which includes local taxes) based upon the cost price of tangible personal property transferred incident to sales of

service. They remit the tax to the Department by filing returns and do not pay tax to suppliers. They provide suppliers with Certificates of Resale for the property transferred to service customers.

The final method of determining tax liability may be used by de minimis servicemen that are not otherwise required to be registered under the Retailers' Occupation Tax Act. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). Such de minimis servicemen may pay Use Tax to their suppliers or may self-assess and remit Use Tax to the Department when making purchases from unregistered out-of-State suppliers. Those servicemen are not authorized to collect "tax" from their service customers, nor are they liable for Service Occupation Tax. It should be noted that servicemen no longer have the option of determining whether they are de minimis using a transaction by transaction basis.

With regard to multi-service situations, businesses that sell items printed by other printers are acting as primary servicemen in a multi-service situation, and the other printers are the secondary servicemen. Primary servicemen who act as de minimus servicemen owe tax on their cost price. In multi-service situations, the primary servicemen's cost price is determined either by separately stated selling prices of the tangible personal property transferred, or if the secondary servicemen do not separately state the cost of goods, it is presumed that the primary servicemen's cost price is 50% of the secondary servicemen's total charges. See 86 Ill. Adm. Code 140.145 and 140.301, enclosed.

If the primary and secondary servicemen are both registered, primary servicemen may give Certificates of Resale to the registered secondary servicemen for any tangible personal property purchased. The primary servicemen would then remit Service Occupation Tax upon either their cost price or upon the separately stated selling price of the tangible personal property transferred, or if not separately stated, then on 50% of service bills to customers.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Encl.